

## **REMARKS**

This application has been reviewed in light of the Office Action mailed July 12, 2007.

Reconsideration of this application in view of the below remarks is respectfully requested.

Claims 1 – 34 are pending in the application with Claims 1 and 6 – 34 having been previously withdrawn and Claims 2 – 5 having been elected for further prosecution. By the present amendment, Claim 2 is amended. No new subject matter is introduced into the disclosure by way of the present amendment.

### **I. Objection to the Specification**

The Examiner has objected to the specification because the acronym “DDS” is not defined in the specification thus rendering unclear to what DDS refers. As the Examiner suggests, DDS is an abbreviation for Direct Digital Synthesizer, which is described in Japanese Publication No. 2002-45368 disclosed as prior art, and is therefore a known device. Therefore, Applicant submits that one of ordinary skill in the art would recognize the abbreviation DDS as referring to a Direct Digital Synthesizer, and as such no amendment to the specification is necessary. Accordingly, Applicant respectfully requests withdrawal of the present objection to the specification.

### **II. Rejection of Claims 1 – 5 Under 35 U.S.C. § 102(a)**

Claims 1 – 5 are rejected under 35 U.S.C. 35 § 102(a) as allegedly anticipated by Applicant’s prior art FIG. 11 (hereinafter, “prior art FIG. 11”); or in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over prior art FIG. 11 in view of U.S. Patent No. 6,678,621 issued to Wiener et al.

Prior art FIG. 11 has a hand-piece discriminating circuit 110 that is used to detect the type of hand-piece that is connected to the ultrasonic operation apparatus 100. However, the

information regarding the type of hand-piece connected to the ultrasonic operation apparatus 100 is not used for the purpose of controlling the sweep circuit to facilitate the detection of the resonance frequency of the ultrasonic vibrator in the hand-piece. On the other hand, Applicant's invention controls a sweep circuit based on information characterizing the attached hand-piece, thus limiting the time necessary for detecting the proper resonance frequency.

Claim 2 recites: "...a sweep operation control portion for controlling an operating parameter of the sweep portion based on the discrimination result from the hand piece characteristic discriminating portion..." which Applicant believes clarifies that the sweep operation control portion controls the operating parameters used by the sweep portion based on the discrimination result.

Regarding the teachings in Wiener, the disclosed apparatus controls the sweep rate such that initially, the sweep frequencies are set to 50 KHz increments, for example, but as the sweep circuit approaches the resonance frequency, as indicated by a detection of a change in impedance, the sweep rate is slowed to, for example, 1KHz increments. In this way the resonance frequency is not overshot. In contrast, the present invention does not vary the sweep rate during a sweep, but rather sets the operating parameters of the sweep circuit prior to initiation of the sweep based on the discrimination result from the hand piece characteristic discriminating portion.

Therefore, Wiener, taken alone or in any proper combination with prior art FIG. 11, fails to disclose or suggest Applicant's claimed invention as recited in Claim 2 as well.

It is well-settled by the Courts that "[A]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company, et al., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir., 1984).

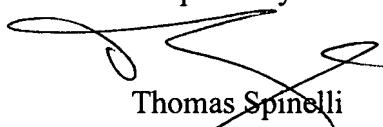
Therefore, as demonstrated above, because both prior art FIG. 11 and Weiner fail to disclose each and every element recited in the present claims, Applicant respectfully submits that the rejection has been obviated. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 2 – 5 under 35 U.S.C. § 102(a).

## CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 2 – 5 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



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